

REMARKS

Claims 6-10, 16-26 and 29-75 are pending in this action. Claims 6, 16, 21, 50 and 60 are currently amended. Claims 68-75 are new. No new matter has been introduced. Please see Figures 8, 9, 11 and 12 and the descriptions thereof in the specification.

Claim Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 6, 16, 21, 26, 29-32, 34, 35, 37-42, 44, 45, 47-55, 57-65 and 67 under 35 U.S.C. § 102(e) as anticipated by Bestavros et al. (U.S. Patent No. 6,370,584). Applicant respectfully traverses the Examiner's rejections.

Independent claims 6, 16, 21, 50 and 60, as amended, recite "the second packet including a reference to a data structure of a connection with the client and an indication that the second packet is a forwarded packet, the reference to the data structure and the indication being included within a single header of the second packet" (or similar language). As an initial matter, the Examiner points to two headers, the IP and TCP headers, in a re-routed packet as the recited single header, and to the session TCP/IP stack as "inherently" including a data structure of a connection with the client. (Office Action, Paragraph 3). There is no indication in the '584 Patent that the IP and TCP headers include a reference to the session TCP/IP stack. Further, Applicant traverses the Examiner's conclusory contention that the recited data structure of a connection with a client is inherently included in the session TCP/IP stack. The Examiner has not met his burden of establishing inherency.

Nevertheless, to further prosecution Applicant has amended the independent claims. The '584 Patent does not teach, suggest or motivate a second packet containing a reference to a data structure of a connection with the client and an indication that the second packet is a forwarded packet within a single header of the second packet.

Claims 29-32, 34, 35, 37 and 38, as well as new claims 68 and 69, depend from claim 6. Claims 39-42, 44, 45 and 47-49, as well as new claims 70 and 71, depend from claim 16. Claim 26 and new claims 72 and 73 depend from claim 21. Claims 51-55 and 57-59, as well as new claims 74 and 75, depend from claim 50. Claims 61-65 and 67 depend from claim 60. At least by virtue of their dependencies, these dependent claims are not taught, suggested or

motivated by the '584 Patent, as discussed above. Therefore, for these reasons and others, claims 6, 16, 21, 26, 29-32, 34, 35, 37-42, 44, 45, 47-55, 57-65 and 67, as well as new claims 68-75, are not anticipated or rendered obvious by the '584 Patent.

With regard to claim 37, Applicant respectfully traverses the Examiner's unsupported contention that a network interface *card* is inherent in any connection of a computing device to a network.

Claim Rejections Under 35 U.S.C. 103

The Examiner has rejected Claims 7-10, 17-20, and 22-25, 33, 36, 43, 46, 56 and 66 under 35 U.S.C. 103(a) as rendered obvious by the '584 Patent. Applicant respectfully traverses the Examiner's rejections. Claims 7-10, 33 and 36 (as well as new claims 68 and 69) depend from claim 6, claims 17-20, 43 and 46 (as well as new claims 70 and 71) depend from claim 16, claims 22-25 (as well as new claims 72 and 73) depend from claim 21, claim 56 (as well as new claims 74 and 75) depend from claim 50, and claim 66 depends from claim 60. As noted above, the '584 Patent does not teach, suggest or motivate the second packet containing a reference to a data structure of a connection with the client and an indication that the second packet is a forwarded packet within a single header, as recited. Accordingly, Applicant respectfully submits that claims 7-10, 17-20, 22-25, 33, 36, 43, 46, 56 and 66, as well as new claims 68-75, are not rendered obvious by the '584 Patent, because at least one aspect of each of these claims is not taught, suggested or motivated by the '584 Patent, contrary to the Examiner's assertions.

In addition, Applicant respectfully traverses the Examiner's conclusory contentions that several of the dependent claims recite additional limitations missing from the '584 Patent that would be obvious to one of skill in the art. The Examiner has not yet provided a *prima facie* case for combining the additional limitations with the '584 Patent. Specifically, there is no evidence in the prior art of a motivation to combine the reference with the allegedly known facts. A naked assertion such as it would have been obvious to combine the '584 Patent with allegedly known facts for the stated purpose is insufficient by itself to establish a *prima facie* case for obviousness. (MPEP § 2142.01.IV; *See generally* MPEP §§ 2142-2143.03.) The

case law is clear that an applicant's specification or claims cannot be used in hindsight as a template for combining references.

For example, claims 7-10 recite, respectively, that the recited identifier is a session identifier, an HTTP session identifier, a URL identifier, and an SSL identifier. There is no motivation in the '584 Patent for using these specific identifiers as the recited identifier. For similar reasons, there is no motivation in the '584 Patent with respect to claims 17-20 and 22-25.

With regard to claims 33 and 43, Applicant respectfully traverses the Examiner's unsupported "Official Notice" that providing a UDP instead of a TCP port "is well known and expected in the art." (Office Action, Paragraph 19). The conclusion that it would have been obvious to combine the alleged fact noticed by the Examiner with the '584 Patent does not follow from the premise that the alleged fact is well known in the art. In other words, even assuming, arguendo, that the Examiner has correctly taken Official Notice of the concept of providing a UDP instead of a TCP port, it does not follow that one skilled in the art at the time of invention would have necessarily have been motivated to combine this concept with the '584 Patent. As noted above, it is the Examiner's burden to set forth a prima facie case for combining references that includes a motivation to combine such references found in the references or in the art. In this case, the Examiner has pointed to no such motivation. Accordingly, even if the Official Notice was correctly taken, the Examiner has improperly combined the noticed fact with the '584 Patent. There is no motivation in the '584 Patent for the combination, and the Examiner cannot rely on the Applicant's disclosure as providing the motivation.

With regard to claims 36, 46, 56 and 66, Applicant respectfully traverses the Examiner's unsupported contention that "it is well known that in order for programs on the clients to communicate with programs on servers, they must use a mechanism to communicate data between these processes, which is well-known to be a socket" and therefore that "providing for a socket-based application is used on the server is well known and expected in the art." (Office Action, Paragraph 20). Again, even if the Examiner is correct that socket-based applications were well-known, it does not follow that the combination of socket-based applications with the '584 Patent would have been obvious. There is no motivation in the '584

Patent for the combination, and the Examiner cannot rely on the Applicant's disclosure as providing the motivation to combine socket-based application with the '584 Patent.

In addition, applicants respectfully traverse the Examiner's taking of Official Notice itself, and reserve the right to make further arguments regarding the taking of Official Notice in the event that the Examiner disagrees with the above arguments regarding the appropriateness of utilizing the alleged fact with respect to the cited reference.

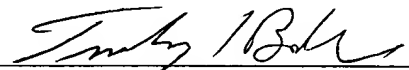
Therefore, for these reasons and others, claims 6-10, 16-26 and 29-75 are not anticipated or rendered obvious by the '584 Patent. In the event the Examiner disagrees or finds minor informalities, Applicant respectfully renews its request for a telephone interview to discuss the Examiner's issues and to expeditiously resolve prosecution of this application. Accompanying this Amendment is a Request for Telephone Interview in the event the Examiner does not agree that the claims are allowable over the cited references.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Application No. 09/872,332
Reply to Office Action dated July 18, 2006

All of the claims remaining in the application are now clearly allowable.
Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC



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TLB:jms

Enclosure:

Postcard
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